

Steven F. Alder (#00033)
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Utah Division of Oil, Gas and Mining
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FILED

DEC 02 2011

SECRETARY, BOARD OF
OIL, GAS & MINING

**BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH**

REQUEST OF THOMAS F. MILLER
FOR AGENCY ACTION REGARDING
THE DIVISION OF OIL, GAS, AND
MINING'S ACTIONS CONCERNING
THE VIPONT MINE, LOCATED IN
SECTION 6 OF TOWNSHIP 14
NORTH, RANGE 17 WEST, SECTION
31 OF TOWNSHIP 15 NORTH,
RANGE 17 WEST, AND SECTION 12,
TOWNSHIP 14 NORTH, RANGE 18
WEST, IN BOX ELDER COUNTY,
UTAH.

**OBJECTION TO AN
EXPEDITED HEARING**

Docket No.: 2012-001

Cause No.: S/003/ 035

The Division of Oil, Gas, and Mining (Division) hereby objects to the Board setting an expedited hearing for Thomas F. Miller's Request for Agency Action for the following reasons:

1. There is no urgency, neither alleged nor apparent from the pleadings. The Petitioner has not alleged 'good cause' as required by the rules, nor any reason for expediting the hearing. The actions complained of and the damages alleged to have resulted are not imminent, but occurred long ago: the allegedly improper approval of the NOI to Cadence occurred more than nine years ago; and the allegedly improper notice to

proceed with reclamation work was sent more than two years ago. The mine has been inactive for more than ten years.

2. It is appropriate that the Division be provided the normal time to respond to the claims. The Division questions whether the Petitioner is the proper party to raise the claims and believes the claims may be barred for a number of reasons. A motion to dismiss will likely be filed and time should be allowed for a response and review prior to any hearing.

WHEREFORE, the Division asks the Board to deny the request for an expedited hearing and set the matter for hearing as appropriate under its Procedural Rules of the Board but not sooner than the January 25, 2012 scheduled hearing.

Respectfully submitted this 2 day of December, 2011.

UTAH DIVISION OF OIL, GAS, AND MINING

A handwritten signature in dark ink, appearing to read "Steven F. Alder", is written over a horizontal line.

Steven F. Alder
Assistant Utah Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on December 2nd 2011, a true and correct copy of the foregoing Objection to Expedited Hearing was sent to the following:

By hand delivery to:

Mike Johnson
Attorney for the Board of Oil, Gas and Mining
1594 West North Temple
Salt Lake City, Utah 84116

by Unites Stated Mail, First Class Postage to:

Thomas F. Miller
1116 North Frontage Road
Deer Lodge, Montana 59722

87 Allen

From: Julie Ann Carter
To: Cameron Johnson; Carl Kendell; Chris Hansen; Dana Dean; Emily Berry;...
Date: 12/5/2011 10:56 AM
Subject: Thomas Miller 2012-001 S/003/005
Attachments: 2012-001_20111202_ObjectionToAnExpeditedHearing.pdf

Attached is:

- Objection to an Expedited Hearing, filed December 2, 2011

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The Division asks the Board to deny the request for an expedited hearing and set the matter for hearing as appropriate under its Procedural Rules of the Board but not sooner than the January 25, 2012 scheduled hearing.

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Please note: Beginning Tuesday, September 6, 2011, our agency hours will be 8am-5pm, Monday-Friday.